

MINUTES OF THE
JOINT HEALTH AND HUMAN SERVICES APPROPRIATIONS SUBCOMMITTEE
THURSDAY, FEBRUARY 04, 2010, 2:00 P.M.
Room 30, House Building, State Capitol Complex

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. John Dougall, Co-Chair
Sen. Patricia W. Jones
Sen. Daniel R. Liljenquist
Sen. Margaret Dayton
Rep. Kraig Powell
Rep. Rebecca Chavez-Houck
Rep. Ben C. Ferry
Rep. Paul Ray
Rep. David Litvack
Rep. Ronda Rudd Menlove

Members Excused: Rep. Keith Grover

Staff Present: Russell Frandsen, Fiscal Analyst
Stephen Jardine, Fiscal Analyst
Ernest Hayes, Secretary

Public Speakers Present: Rep. Harper
Rep. Moss
Sherri Whittwer, Executive Director of NAMI Utah
Doug Mottonon, Valley Mental Health
Rep. Seelig
Rep. Fowlke
Charlie Luke, Utah Association of Community Services
Rep. Chavez-Houck
Lincoln Nehring, Utah Health Policy Project
Marc Christensen, President, Utah Association of Community Services
Ken Stettler, Director, Office of Licensing
Steve McDonald, Director, Program Services for the March of Dimes
Duane Betournay, Director, DCFS
Rep. Fowlke
Mark Ward, Deputy Director of Department of Human Services
Lisa-Michele Church, Executive Director, Utah Department of Health
Rep. Gibson
Desiree Hennessey, mother and constituent of Rep. Gibson

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order

The meeting was called to order by Co-Chair Christensen at 2:14 p.m.

2. Current Bills with Fiscal Impact

Rep. Moss (HB 198 - *Assertive Community Mental Health Treatment Pilot Program*)

Rep. Moss introduced H.B 198. She emphasized that community-based mental health treatment is less expensive when compared to institutionalized care. The treatment is also better and more effective. She noted her hope to see improved efficiency in government. Sherri Wittwer with NAMI Utah, assisted in the presentation. Doug Mottonon from Valley Mental Health also assisted in the presentation. The fiscal note for this bill is \$948,000.

Rep. Fowlke (HB 256 - *Child Abuse Database Amendments*)

Rep. Fowlke introduced H.B. 256. She stated that the fiscal note is unavailable at this time. Duane Betournay, Director of DCFS, assisted in the presentation.

Rep. Seelig (HB 106 - *Expedited Background Checks for Human Services Providers*)

Rep. Seelig introduced H.B. 106. Charlie Luke, from the Utah Association of Community Services, assisted in the presentation. Mr. Luke expressed his support for the bill saying that it allows employees to receive timely background checks and eliminates the need to double up on staff during the background check waiting time. Marc Christensen, President of the Utah Association of Community Services also assisted in the presentation. Mr. Christensen further explained the dilemmas associated with waiting for clearances. Ken Stettler, Director of the Office of Licensing, also assisted in the presentation. Mr. Stettler noted for the committee that third party background check providers do not have access to as many databases as the department has.

Sen Liljenquist stated his concern that this is a huge area of cost. A discussion on background checks took place.

Committee questions were addressed by Mr. Stettler and Rep. Seelig.

Rep. Harper (HB 235 - *Child Support for Children in State Custody*)

Rep. Harper introduced H.B. 235. He explained that the bill prevents the double charging of parents.

Rep. Seelig (HB 281 *Medicaid Family Planning Waiver*)

Rep. Seelig introduced H.B 281. She explained that the bill extends the family planning waiver to women of child bearing age who's family income does not exceed 133% of the federal poverty level. Steve McDonald, Director of Program Services for the March of Dimes, assisted in the presentation. Rep. Seelig responded to committee questions on the bill. The fiscal note for this bill is \$1.1 million for FY 2011 and gives \$500,000 in savings for FY 2012.

Rep. Chavez-Houck (HB 87 - *Medical Assistance Asset Test*)

Rep. Chavez-Houck introduced H.B. 87. Lincoln Nehring, with the Utah Health Policy Project, assisted

in the presentation and explained the asset test. Rep. Chavez-Houck and Mr. Nehring responded to a few questions from committee members pertaining to the bill.

3. Department of Human Services - Child and Family Services

Stephen Jardine, fiscal analyst, provided the committee with a review of the brief entitled Department of Human Services - Child and Family Services. Mr. Jardine explained that by statute, DCFS provides child abuse prevention services, child protective services, shelter care, foster care, residential care, adoption assistance, healthcare for children in state custody, family preservation, protective supervision, and domestic violence preventative services. Mr. Jardine reviewed charts and information related to DCFS funding and went over the department's requests. Mr. Jardine also went over the brief entitled Loss of Federal Medicaid Funds for Children and Youth in Residential Care and added that the state contracts with private providers. Budgeting options and strategies related to the divisions were also thoroughly reviewed and explained.

Committee questions on the budget briefs were addressed by Mr. Jardine. In response to Rep. Powell's comments, Mr. Jardine noted that issues related to budget reductions in these divisions is of major concern at this time.

4. DCFS - Agency Response

Duane Betournay, Director of the Division of Child and Family Services, addressed the committee and reviewed measures being taken by the department to manage the budget reductions. Mr. Betournay mentioned the department's hiring freeze and other actions to deal with new budget restrictions, like reducing the length of time children spend in certain facilities. Mr. Betournay also noted that federal funds have been maximized and that the department supports the governor's budget. Within the effort to manage the budget reductions, the department will continue to focus on outcomes, goals and strategies. Mr. Betournay requested policy guidance from the Legislature in order for the department to make prudent decisions. Child safety throughout this process was emphasized as a major department concern.

Mark Ward, Deputy Director with Department of Human Services also addressed the committee and noted the department's efforts to balance personnel and services.

Several questions from committee members were addressed by Mr. Ward and Mr. Betournay. Mr. Betournay shared that the department is teaming with county mental health authorities and piloting a program in eastern Utah called the System of Care approach, which brings together all agencies within the community to try and find ways to keep children in their home environment with wrap-around services.

In response to Co-Chair Dougall's question regarding the loss of federal funds, Mr. Betournay said that because the children are citizen's of Utah, the issue becomes a state issue and the consequences of treating the issue solely as a federal issue would be felt by the state.

6. Rep. Kerry Gibson

Rep. Gibson introduced Desiree Hennessey, her husband Matt and their son Esteban. Rep. Gibson stated that children should be our prized possession. In hearing the Hennessey's story and in working with them, Rep. Gibson discovered that sometimes the system does not treat children as our prized possession.

Desiree shared her family's story with the committee as it relates to her struggle with the system in caring for Esteban. She related the difficulties she experienced with Esteban's caseworker as they sought to see to his complex medical needs. Mrs. Hennessey encountered several problems along the way, especially during their adoption process while serving as Esteban's foster parents on behalf of the state. As they continued the process, the Hennessey's feared losing Esteban back to DCFS. Desiree was ultimately served with a 30-day notice of cancellation of contract, which would render her unlicensed and unable to continue caring for Esteban in their home. With difficulty and frustration, they continued to work with all parties involved until they were able to retain custody of Esteban. Desiree found it necessary to fight allegations and statements made by the division she felt were false in order to retain guardianship of Esteban. She encountered similar difficulties during the adoption process and in dealing with financial concerns. Mrs. Hennessey made a plea to the committee to cut the DCFS budget, stating that money is power and with power comes the potential for abuse of that power.

Rep. Gibson further explained his involvement with the Hennessey's and expressed admiration for the Hennessey's as they answered a statewide call to become a part of the foster care system. Rep. Gibson also expressed gratitude to Lisa-Michele Church and Duane Betournay's for their involvement in this situation after they became involved. He expressed concern about the system and said he felt appalled at the way this situation grew to this proportion because of a few ill-intentioned employees. He likewise stated to the committee that money is indeed power and budget reduction considerations deserve special attention in light of stories such as the Hennessey's.

Co-Chair Christensen commented on the issue and responded to the Hennessey's story stating that these types of concerns deserve careful consideration.

Rep. Ferry requested a response from the Department of Health and Human Services and expressed his desire to know how to make the system work effectively.

Lisa-Michele Church, Executive Director of the Utah Department of Health, addressed the committee. She commended the Hennessey's for their remarkable example. Speaking to the systemic issue, Ms. Church recommended better decision making and better balancing of the power between caseworker, guardian ad litem, attorney general and the family. In terms of policy improvements, she also suggested that the protection for foster parents against removal could be changed by statute, in an effort to better balance the power between the division and the parents.

Mr. Betournay also responded and addressed the committee. He emphasized the need for better decision making and briefly discussed how his involvement in the case lead to a favorable resolution. He spoke about the layers in the system and his continued effort to resolve constituent's problems.

Questions from the committee were then addressed by Ms. Church and Mr. Betournay. Ms. Church elaborated on her suggestion of a statutory change to improve foster parent's rights. Mr. Betournay briefly

touched on some due process considerations that could be looked at.

Further comments on this issue from committee members were heard. Rep. Gibson responded to a question from Rep. Chavez-Houck and articulated his concerns about foster care. He also clarified that we should never be afraid to make necessary budget reductions in our structure for fear of being sued.

Co-Chair Dougall also commented on the Hennessey's story and its implications on the system, emphasizing the importance of creating an appropriate culture in the system to avoid similar situations.

6. Other Business

Mr. Jardine responded to a question from Rep. Powell regarding motions for next week, budget briefs and other available materials.

MOTION: Rep. Powell moved to adjourn.

Co-Chair Christensen adjourned the meeting at 5:37 p.m.

Minutes recorded by Ernest Hayes, Secretary

Sen. Allen Christensen, Committee Co-Chair

Rep. John Dougall, Committee Co-Chair